

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of

Petition of NTUA Wireless, LLC for)	WC Docket No. 09-197
Designation as an Eligible Telecommunications)	
Carrier Pursuant to Section 214(e)(6) of the)	
Communications Act of 1934 as Amended, for the)	
Purpose of Receiving CAF Phase II Support)	

PETITION OF NTUA WIRELESS, LLC
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
FOR PURPOSES OF RECEIVING CAF PHASE II SUPPORT AND REQUEST FOR
EXPEDITED CONSIDERATION

Pursuant to Section 214(e)(6) of the Communications Act, as amended,¹ NTUA Wireless, LLC (“NTUA Wireless”) respectfully requests an expansion of its designation as an Eligible Telecommunications Carrier (“ETC”) on the Navajo Nation. Specifically, NTUA Wireless seeks ETC designation in the Census Block Groups for which it has been awarded Connect America Fund (“CAF”) Phase II support via Auction 903.² On August 28, 2018, the Federal Communications Commission (“Commission”) issued a Public Notice closing the Auction and announcing the winning bidders.³ NTUA Wireless is obligated to obtain this ETC designation within 180 days of that Public Notice and, therefore, requests expeditious action to conform to this requirement.⁴

I. INTRODUCTION AND SUMMARY

NTUA Wireless is a Limited Liability Company (“LLC”) that was created through a partnership between the Navajo Tribal Utility Authority (“NTUA”) and Commnet Wireless LLC

¹ 47 U.S.C. § 214(e)(6).

² Commnet Wireless, LLC assigned its winning bids on the Navajo Nation to NTUA Wireless, LLC by filing the required information on the FCC Form 683.

³ *Connect America Fund Phase II Auction (Auction 903) Closes, Winning Bidders Announced, FCC Form 683 Due October 15, 2018*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, DA 18-887, August 28, 2018 (*Auction Closing Public Notice*)

⁴ NTUA Wireless is required to secure the ETC designation no later than February 25, 2019. Furthermore, NTUA Wireless will not be eligible to receive support until its long form is approved and the long form will be deemed incomplete until the ETC designation is in place. *Auction Closing Public Notice para 16.*
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(“Commnet”). NTUA Wireless is majority-owned by NTUA, a Tribal enterprise of the Navajo Nation.⁵ Commnet is a wholly-owned subsidiary of ATN International, Inc., a publicly traded corporation headquartered in Beverly, Massachusetts. Commnet and its subsidiaries are licensed by the FCC as a facilities-based provider of CMRS and provides those services principally in rural areas. NTUA Wireless provides mobile voice and broadband services as well as fixed broadband services over its facilities on both a wholesale and retail basis. NTUA Wireless has previously been designated as an ETC on the Navajo Nation by the Commission for purposes of providing Lifeline service and participating in Tribal Mobility Fund I.⁶

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As discussed in more detail below, the Commission has the authority to expand NTUA Wireless’ ETC designation under Section 214(e)(6), and NTUA Wireless meets all of the statutory and regulatory requirements for expansion of its designation for CAF Phase II funding eligibility. Designating NTUA Wireless as an ETC for purposes of receiving CAF Phase II universal service

⁵ As set forth in Title 21, Sections 5 and 7 of the Navajo Code, NTUA’s governing board exercises its authority in the best interests of the Navajo Nation and is “authorized to direct the operations to accomplish the purposes” of promoting telecommunications services. Moreover, NTUA’s governing board is empowered with “the capacity to act ... to accomplish the purposes of 21 N.N.C. § 5” which include promoting telecommunications services to the residents of the Navajo Nation, and the NTUA board is authorized to “act in any state, territory, district, or possession of the United States ... for and on behalf of the tribal enterprise.” See 21 N.N.C. § 7(b)(2) and (4). Accordingly, NTUA is a unit of the Navajo Nation government, analogous to the way that the Tennessee Valley Authority is a unit of the United States government and simultaneously a utility operator.

⁶ *Second Amendment to Petition of NTUA Wireless, LLC for Designation as an Eligible Telecommunications Carrier for Lifeline Service and for Conditional ETC Status to Participate in Tribal Mobility Fund Phase I (Auction 902) on the Navajo Nation*, 29 FCC Rcd 1669 (2014) (“NTUA Wireless ETC Order”).

funds will serve the public interest by allowing NTUA Wireless to receive support to serve the areas that it is obligated to serve, thereby expanding the number of new locations that will receive coverage for the finite budget available.

II. THE COMMISSION HAS AUTHORITY TO GRANT THE ETC DESIGNATION

Pursuant to Section 214(e)(6), the Commission may designate an ETC where the applicant “is not subject to the jurisdiction of a State commission.” The Commission has established a process for carriers seeking ETC designation on Tribal lands, in which a carrier submits an application with the Commission, demonstrating that the carrier is subject to the jurisdiction and laws of the Tribe and not subject to the jurisdiction of the state commissions.⁷ The Commission has previously exercised its authority to designate qualified carriers as ETCs on the Navajo Nation, including the Petitioner NTUA Wireless, LLC.⁸ Therefore, given the requirement that NTUA Wireless obtain ETC status within 180 days of the FCC’s Public Notice,⁹ NTUA Wireless urges the Commission to process this petition for expansion of its ETC designation without delay. Specifically, the Petitioner requests that the Commission exercise its authority under Section 214(e)(6) to designate the NTUA Wireless as an ETC for purposes of receiving high cost universal service support from the Connect America Fund Phase II.

III. NTUA WIRELESS MEETS THE STATUTORY AND REGULATORY PREREQUISITES TO BE DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

As demonstrated herein, NTUA Wireless satisfies the requirements for designation as an

⁷ Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208 (2000).

⁸ See *NTUA Wireless ETC Order*.

⁹ Winning Bidders must obtain a high-cost ETC designation by February 25, 2019 or 180-days. *Auction Closing Public Notice para 16*.

ETC established under the statute¹⁰ and FCC rules.¹¹

A. NTUA Wireless Will Provide Service as a Common Carrier

NTUA Wireless is a CMRS provider licensed by the FCC and therefore regulated as and subject to the requirements applicable to a common carrier. NTUA Wireless is a common carrier and meets this requirement of ETC designation.¹² The Commission has previously found that NTUA Wireless satisfies this requirement.¹³

B. NTUA Wireless Offers the Services Supported by the Federal Universal Service Support Mechanisms

Voice Grade Access To The Public Switched Telephone Network

NTUA Wireless meets this requirement through its provision of mobile voice service that is interconnected to the public switched telephone network. NTUA Wireless' voice service includes minutes of use for local service provided at no charge to end users. NTUA Wireless' voice service also provides access to emergency services via 911 or E-911, wherever available from local government or public safety organizations. NTUA Wireless commits to provide toll limitation services to qualifying low-income consumers as provided in the FCC's Rules.¹⁴ The Commission has previously found that NTUA Wireless satisfies this requirement.¹⁵

Broadband Internet Access Services

NTUA Wireless' broadband internet offering provides the capability to transmit and receive data by radio from all or substantially all Internet endpoints, including any capabilities that are

¹⁰ 214(e)(1).

¹¹ 47 C.F.R. § 54.201(d).

¹² 47 C.F.R. § 20.9

¹³ *NTUA Wireless ETC Order*.

¹⁴ 47 C.F.R. § 54.101(a)(1).

¹⁵ *NTUA Wireless ETC Order*.

incidental to and enable the operation of the communications service.¹⁶

For CAF Phase II support recipients, the Commission defines supported service as qualifying voice service and conditions the grant of funding on the offering of qualifying broadband services. Therefore, an ETC must offer voice telephony as a standalone service throughout the designated service area and must offer voice telephony services at rates that are reasonably comparable to urban rates.¹⁷ NTUA Wireless commits to provide the supported services consistent with the obligations applicable to CAF Phase II support recipients.¹⁸ NTUA Wireless also commits to offer Lifeline service as required by the Commission's rules at all locations where it has been awarded support.¹⁹

C. NTUA Wireless Provides Service Using Its Own Facilities

NTUA Wireless is a facilities-based mobile voice/broadband and fixed broadband provider with its own towers, radio equipment, trunking, switching facilities, and other associated facilities. Therefore, NTUA Wireless meets the applicable facilities-based requirement for ETCs that the supported services must be provided either using its own facilities or a combination of its own facilities and resale of another carrier's service.²⁰ The Commission has previously found that NTUA Wireless satisfies this requirement.²¹

D. NTUA Wireless Will Provide Service Throughout Its Designated Service Area

NTUA Wireless commits to provide the supported service throughout its designated service

¹⁶ 47 C.F.R. § 54.101(a)(2).

¹⁷ *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197, 10-90, Public Notice, DA 18-714, July 10, 2018 (*CAF Phase II ETC Public Notice*), p 3

¹⁸ 47 C.F.R. § 54.101(c).

¹⁹ 47 C.F.R. § 54.101(d).

²⁰ 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1).

²¹ *NTUA Wireless ETC Order*.

area, attached hereto as Exhibit 1, consistent with all applicable requirements. NTUA Wireless' requested ETC service area is the area in which it has been awarded CAF Phase II support via Auction 903.²²

E. NTUA Wireless Will Advertise the Availability of Its Services and Charges Using Media of General Distribution

NTUA Wireless will advertise the availability of, and charges for, the supported service offerings using media of general distribution. NTUA Wireless will also undertake outreach initiatives to increase consumer awareness of its Lifeline service offering, consistent with all applicable requirements. NTUA Wireless currently offers and advertises its services, including those offerings that include all of the supported services, via the Internet, print media, billboards, and targeted mailings, among others. NTUA Wireless will advertise its universal service offerings in a manner consistent with applicable requirements. The Commission has previously found that NTUA Wireless satisfies this requirement.²³

F. NTUA Wireless Meets the Additional Requirements for Designation as an ETC

NTUA Wireless further certifies that it meets all of the Commission's requirements for designation as an ETC under Section 214(e)(6).²⁴

Five-Year Plan. NTUA Wireless certifies that it will provide service to the locations for which it has been awarded support consistent with the deployment obligations associated with the receipt of CAF Phase II support including the annual reporting of service to geocoded locations and certification of benchmark milestones. Given these obligations, the Commission has waived the

²² Commnet Wireless, LLC assigned its winning bids on the Navajo Nation to NTUA Wireless, LLC by filing the required information on the FCC Form 683.

²³ *NTUA Wireless ETC Order*.

²⁴ 47 C.F.R. § 54.202.

requirement that winning bidders seeking an ETC designation file a five-year service improvement plan.²⁵

Compliance with Applicable Service Requirements. NTUA Wireless certifies that it will comply with the service requirements applicable to CAF Phase II support that it receives. The Commission has previously found that NTUA Wireless satisfies the service requirements applicable to competitive ETCs.²⁶

Ability to Remain Functional in Emergency Situations. – NTUA Wireless has the ability to remain functional in emergency situations as required by the Commission’s rules.²⁷ Specifically, NTUA Wireless has adequate amounts of back-up power to ensure functionality without an external power source, and is able to reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergency situations. NTUA Wireless further commits to comply with any applicable reporting requirements of the Commission with respect to outages. The NTUA Wireless network is reinforced by the presence of generator backups, capable of running for extended periods in the event of a major electrical outage. These include back-up batteries that provide at least four hours of back-up power and portable generators can be moved to individual cell sites, as needed. Because individual cell sites are spread out, it is highly unlikely that an electrical outage would affect more than two sites simultaneously. In the event of power or other types of failure, the cell sites are equipped with alarms that will alert NTUA Wireless technicians. Additionally, the sites are monitored remotely by NTUA Wireless’ 24/7 Network Operations Center (NOC) should there be a total communications failure at the

²⁵ CAF Phase II ETC Public Notice, p. 4

²⁶ NTUA Wireless ETC Order

²⁷ 47 CFR. § 54.202(a)(2)

site. NTUA Wireless' main switch connectivity to the public switched voice network is based on a ring topology and is redundant – if the ring is cut, call traffic can be re-routed. NTUA Wireless uses both microwave and leased lines for added diversity to cell site hubs. Backbone traffic lines are designed with sufficient capacity to manage extraordinary spikes. The Company has multiple agreements with long distance providers to absorb excess calling, if needed. NTUA Wireless has cell sites on wheels, mobiles towers, and mobile generators available for deployment to areas where there are traffic spikes, due to emergencies or special events. The Commission has previously found that NTUA Wireless satisfies this requirement.²⁸

Consumer Protection and Service Quality Standards. NTUA Wireless certifies that it will satisfy all applicable consumer protection and service quality standards applicable to CAF Phase II support recipients.²⁹ The Commission, however, has waived the consumer protection certification after determining that it was not essential to its ability to monitor an ETC's use of support for its intended purposes.³⁰ The Commission has previously found that NTUA Wireless satisfies this requirement.³¹

IV. GRANT OF THIS PETITION WILL SERVE THE PUBLIC INTEREST

Granting NTUA Wireless the requested expansion of its ETC designation for purposes of receiving CAF Phase II support will serve the public interest.³² The Commission has found that in the context of CAF Phase II, bidders demonstrate their ability to efficiently offer services through the competitive bidding process while in their short and long form

²⁸ NTUA Wireless ETC Order

²⁹ 47 C.F.R. § 54.202(a)(3)

³⁰ CAF Phase II ETC Public Notice, p. 4

³¹ NTUA Wireless ETC Order

³² 47 U.S.C. § 214(e)(6); 47 C.F.R. § 202(b).

applications, bidders demonstrate their ability to meet their public interest obligations. Through such a process, the Commission conducts the cost benefit analysis for ETC designation. Accordingly, carriers need not provide additional specific evidence of service to the public interest in their petitions for ETC designation. (*See CAF Phase II ETC Public Notice*, p. 6.) Granting this petition will promote the rapid deployment of advanced services to unserved and underserved areas of the Navajo Nation in an efficient manner. Grant of this petition also will ensure that CAF Phase II support is used most efficiently and effectively.

V. ANTI-DRUG ABUSE CERTIFICATION

Neither the petitioner nor any party to the application is subject to a denial of federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, as implemented in section 1.2002 of the Commission's rules.

VI. CONCLUSION

As discussed above, designating NTUA Wireless as an ETC for purposes of receiving CAF Phase II support is consistent with the requirements of Section 214(e)(6) of the Act and is in the public interest. For all of the foregoing reasons, NTUA Wireless respectfully requests that the Commission expeditiously grant its request for an expanded designation as an ETC for purposes of receiving CAF Phase II support in the areas identified in this Exhibit 1 of this Petition.

Respectfully submitted,
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EXHIBIT 1

**TO BE UPLOADED SEPARATELY INTO
ECFS, SO AS TO BE MACHINE-READABLE;
TO BE UPLOADED EITHER UPON DIRECTION OF
FCC STAFF, OR AFTER EXPIRATION OF
QUIET PERIOD FOR CAF-II AUCTION**